

DE 94-06 - March 24, 1994

**Formats for Initiative Petitions
Section 100.371(3), F.S.; and Fla. Admin. Code Rule 1S-2.009.**

TO: The Honorable Jon Mills, Counsel, Save Our Everglades, Post Office Box 2099, Gainesville, Florida 32602

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding formats for initiative petitions proposing amendments to Florida's Constitution. You are legal counsel for Save Our Everglades, a political committee circulating an initiative petition. Therefore, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

Essentially, you ask the following questions:

1. After a petition form is approved by the Division, pursuant to Section 100.371(3), Florida Statutes, when does a modification to that form require separate approval by the Division?
2. Is a Spanish translation of a previously approved initiative petition required to be submitted to the Division?

As to your first question, separate approval by the Division is required only when a modification relates to a change in the text of the proposed amendment, the ballot title, or ballot summary.

With regard to your second question, a Spanish translation of a previously approved initiative petition need not be submitted to the Division for format review. The Division does not review the accuracy of the translation.

Section 100.371(3), Florida Statutes, vests in the Secretary of State the authority to approve the form of an initiative amendment.

The sponsor of an initiative amendment shall, prior to obtaining any signatures, register as a political committee pursuant to s. 106.03 and submit the text of the proposed amendment to the Secretary of State, with the form on which the signatures will be affixed, and shall obtain the approval of the Secretary of State of such form. The Secretary of State shall promulgate rules pursuant to s. 120.54 prescribing the style and requirements of such form.

Consequently, the sponsor of an initiative petition is required to submit the "text" of a proposed amendment to the Secretary of State and the petition form on which the signatures will be affixed.

Additionally, in accordance with the statutory mandate in Section 100.371(3), Florida Statutes, Rule

1S-2.009, Florida Administrative Code, was promulgated by the Secretary of State. That rule provides, in pertinent part:

(1) Any proposed amendment to the state constitution to be placed on the ballot by initiative shall be submitted to the Division of Elections for approval as to format prior to the proposed amendment being circulated for signatures. Such submission shall be in writing and shall include a copy or a facsimile of the form proposed to be circulated. The Division shall review as to the sufficiency of the format only and render a decision within seven (7) days following receipt. No review of the legal sufficiency of the text of the proposed amendment is to be undertaken by the Division.

(2) Proposed initiative amendments shall be circulated for signatures only if the format of the petitions is deemed sufficient by the Division.

Thus, in order to be "sufficient," the petition form must meet a variety of technical criteria, such as being printed on separate cards or sheets of paper, a minimum and maximum size, a space for only one signature, and a space for the signer's name, street address, city, county, precinct number, congressional district, date, and signature line. The form also must include the full text of the proposed amendment. Fla. Admin. Code Rule 1S-2.009(2) and (3). It is also permissible to print on the petition form "additional materials supporting the proposed amendment or providing a method by which the petition form may be returned by mail" provided it "does not interfere with required material." Fla. Admin. Code Rule 1S-2.009(5).

After a petition form has been approved by the Division, "any change in a previously approved petition form, or additional types of petition forms ... shall be submitted" to the Division. Fla. Admin. Code Rule 1S-2.009(10). The type of change contemplated by this rule relates only to a change in required material. Required material consists of the text of the proposed amendment, the ballot title, and ballot summary. Any change to required material, such as omitted, added or changed wording or punctuation, will require amended approval of the petition form. Consequently, the previously approved petition form will be invalidated and any signatures obtained on that form will not be counted.

Additional materials supporting the proposed amendment, such as statistics, drawings, graphics, or return mail addresses, are not required to be submitted to the Division for approval. However, pursuant to Rule 1S-2.009(5), Florida Administrative Code, if requested, the Division will review additional materials submitted "to determine that other information does not interfere with required material."

As to your second question, a Spanish translation of a previously approved initiative petition in English need not be submitted in writing to the Division for format review. The Division has neither the responsibility nor the authority to verify that the wording of the Spanish translation is the same as the English version. This responsibility rests with the sponsor of the initiative. To reduce potential differences in interpretation that could result from a language translation, however, it is suggested that the Spanish language version be printed on the reverse side of the approved English language petition form.

SUMMARY

After a constitutional initiative petition form has been approved by the Division, only changes to the text of the proposed amendment, ballot title, or ballot summary require separate approval by the Division. A Spanish translation of a previously approved initiative petition is not required to be submitted to the Division for review and approval.